

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

22-CR-133-RJA

ROBERT CALKINS,JR.,

Defendant.

**GOVERNMENT'S MOTION FOR A
PROTECTIVE ORDER AND ORDER TO SEAL**

THE UNITED STATES OF AMERICA, by and through its attorneys, Trini E. Ross, United States Attorney for the Western District of New York, and David J. Rudroff, Assistant United States Attorney, hereby moves the Court for a Protective Order pursuant to Title 18, United States Code, Section 3509(d)(1) and for an Order permitting the filing of the victim impact statement and restitution requests under seal, for the reasons set forth below.

1. On February 9, 2023, Robert Calkins JR., pled guilty to Counts 1 of the Indictment, which charges a violation of Title 18, United States Code, Sections 2251(a) and 2251(e) (Production of Child Pornography). Sentencing is scheduled for October 19, 2023.

2. On December 2, 2018 and December 10, 2018, the defendant employed, used, persuaded, induced, enticed, or coerced a minor and attempted to use, persuade, induce, entice, or coerce a minor, to take part in a sexually explicit conduct for the purpose of producing a visual depiction of such conduct; the visual depiction was produced using

materials that had been mailed, shipped, or transported across state lines or foreign commerce by any means; and the defendant acted knowingly. In April 2020, New York Police (“NYSP”) received numerous reports from National Center for Missing and Exploited Children (“NCMEC”) that images of potential child pornography had been uploaded to Google account belonging to defendant. On September 10, 2020, the NYSP executed a search warrant and seized numerous electronic devices belonging to defendant, which contained images depicting child pornography.

3. The government has complied with the Justice For All Act, Title 18, United States Code, Section 3771(b), by notifying the Victim as well as her parent about the charges and plea. The government has also contacted known representatives of any victims identified through the National Center for Missing and Exploited Children or has attempted to do so. Numerous victims have submitted victim impact statements describing how the defendant’s actions have affected them and/or requests for restitution. Title 18, United States Code, Section 3509(d) authorizes the filing under seal of the name or any other information concerning a child. Furthermore, Title 18, United States Code, Section 3509(d)(1) requires the government, the defendant and defense counsel, among other things to “keep all documents that disclose the name, or any other information concerning the child in a secure place and shall disclose the documents only to persons who by reason of their participation in the proceeding have a reason to know the information.” Additionally, Title 18, United States Code, Section 3771(a)(8) makes clear that a victim has “the right to be treated with fairness and with respect for the victim’s dignity and privacy.” Since victim

impact statements may contain the name of minor victim as well as other identifying and personal information, the government requests the Court to seal the victim impact statements and requests for restitution and issue a Protective Order limiting disclosure.

4. Pursuant to Title 18, United States Code, Section 3509(d), it is further requested that the material and copies referenced in Paragraph 3, shall not be disclosed to the media or any other person or entity except to those persons who, by reason of their participation in the proceeding, are entitled. Nothing shall prohibit a party from using the material in connection with the proceedings in this litigation, including appeal or any collateral enforcement proceedings.

5. It is further requested that copies shall not be provided to third parties except those employed or engaged for the purpose of this litigation, who shall also be bound by order of the Court.

DATED: Buffalo, New York, October 11, 2023.

Respectfully submitted,

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